



**National Trust for
Historic Preservation**
Save the past. Enrich the future.

February 8, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC

Re: Ex Parte Meeting re Draft Program Comment for FCC's Review of Collocations on
Certain Towers Constructed Without Section 106 Review
WT Docket No. 17-79

Dear Ms. Dortch:

On February 6, 2018, I met with attorneys at the FCC to discuss the agency's proposed Program Comment under Section 106 of the National Historic Preservation Act, 36 C.F.R. § 800.14(e), which attempts to address the issue of "Twilight Towers." (83 Fed. Reg. 1215 (Jan. 10, 2018)).

The meeting lasted no more than 30 minutes, and included the following FCC staff: Suzanne Tetreault, Deputy Chief, Wireless Telecommunications Bureau; Garnet Hanly, Wireless Telecommunications Bureau; Jeffrey Steinberg, Wireless Telecommunications Bureau; and Jill Springer, Federal Preservation Officer, Wireless Telecommunications Bureau.

In the meeting, I discussed issues previously raised in the written comments filed with the FCC by the National Trust for Historic Preservation on December 7, 2017, in WT Docket No. 17-79.

For example, I emphasized that the "uncertainty" rationale for the proposed retroactive exemption was especially unpersuasive with respect to towers built between September 9, 2004 and March 7, 2005, because the FCC during that period had already formally adopted the final text of the Nationwide Programmatic Agreement, even though it had not yet become effective, so there was no excuse for "uncertainty."

I also expressed concerns that the lack of any reporting mechanism would make it extremely difficult for the FCC to monitor and ensure compliance with the safeguards outlined in the proposed program comment, and that it will be important to publicize a clear procedure for the public to report violations.

I also raised the question of whether tower owners who are unable to locate documentation showing when or whether Section 106 review had occurred may also be unable to locate documentation showing the exact date on which construction of the tower began, in order to qualify for the proposed exemption.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Merritt".

Elizabeth S. Merritt
Deputy General Counsel